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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/664,109 | 09/17/2003 | Jay C. Engstrom | 33154.9 | 4766 |
| 32300 | 7590 | 08/25/2004 | EXAMINER | |
| BRIGGS AND MORGAN, P.A. 2200 IDS CENTER MINNEAPOLIS, MN 55402 | | | LEV, BRUCE ALLEN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3634 | |

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/664,109 | ENGSTROM, JAY C. |
| | Examiner | Art Unit |
| | Bruce A. Lev | 3634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 July 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 46-54 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 46-54 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

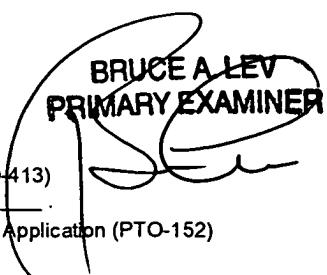
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.


BRUCE A. LEV
PRIMARY EXAMINER

DETAILED ACTION

Claim Rejections - 35 USC 103

Claims 46-50 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over

As concerns claim 46, ***Walker, Jr. sets forth*** a tree climbing apparatus comprising a first platform having a first flexible strap 1 having a non-scratching surface; and a second platform having a second flexible strap 23 having a non-scratching surface; the platforms comprising support arms (8 and 19 respectively); and a plurality of apertures (2 and 22 respectively). ***What Walker, Jr. does not set forth*** is the spring clips at the ends of the straps engaging respective apertures. However, ***Mancini, Jr. teaches*** the use of spring clips 77 at the ends of the straps engaging respective apertures. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Walker, Jr. by incorporating spring clips at the ends of the straps engaging respective apertures, as taught by Mancini, Jr., in order to provide quicker, easier, and more reliable connecting means between the ends of the straps and their respective apertures.

As concerns claim 47, Walker, Jr. sets forth the apparatus wherein a user can face the tree.

As concerns claim 48, Walker, Jr. sets forth the straps being adjustable.

As concerns claim 49, Walker, Jr. sets forth the straps being formed of resilient material (viewed as inherent since the straps are adjustable and adapt to different sized trees).

As concerns claims 50, Walker, Jr. sets forth a pair of boot straps (inclusive of member 30).

As concerns claims 53, Walker, Jr. sets forth an adjustable cam strap 23.

Claims 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker, Jr. in view of in view of Mancini, Jr. further in view of Woller 5,971,104.**

Walker, Jr. in view of Mancini, Jr. set forth the tree climbing device, as advanced above, except for the padded seat, back rest, and shelf. However, **Woller teaches** the use padded tree stand members (inclusive of member 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat, back rest, and shelf of Walker, Jr. in view of Mancini, Jr. by incorporating padded members, as taught by Woller, in order to provide further comfort to a user.

Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker, Jr. in view of in view of Mancini, Jr. further in view of Williams 4,802,552.**

Walker, Jr. in view of Mancini, Jr. set forth the tree climbing device, as advanced above, except for the backpack straps. However, **Williams teaches** the use of

backpack straps 31 upon a tree stand member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tree climbing device of Walker, Jr. in view of Mancini, Jr. by incorporating backpack straps, as taught by Williams, in order to provide means for a user to conveniently carrying the device.

Response to Amendment

Applicant's remarks filed July 23, 2004 have been fully considered but they are not deemed to be persuasive.

As concerns remarks pertaining to the reference of Walker not having spring clips, the examiner points out that in the previous office action (page 5), this limitation has been addressed and hereby reiterated above.

Conclusion

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

8/19/2004

A handwritten signature in black ink, appearing to read "BA Lev".

Bruce A. Lev
Primary Examiner
Group 3600